

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TAUNEE SMITH,)	CASE NO. 1:14-cv-1702
)	
PETITIONER,)	JUDGE SARA LIOI
)	
vs.)	MEMORANDUM OPINION
)	
ALAN LAZAROFF,)	
)	
RESPONDENT.)	

Before the Court is the report and recommendation of the Magistrate Judge in the above-entitled action. (Doc. No. 14 [“R&R”].) Under the relevant statute:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. [. . .]

28 U.S.C. § 636(b)(1)(C).

The R&R was filed on December 23, 2015 and mailed to petitioner at his address of record on that same day. Under Fed. R. Civ. P. 6(d), an additional three days are added when computing service. Therefore, objections were originally due on January 9, 2016, which fell on a Saturday. Under Rule 6(a)(1)(C), that extended the filing deadline to January 11, 2016.

On January 13, 2016, having received no objections nor any request for an extension, the Court issued its Memorandum Opinion and Judgment Entry denying the petition for writ of habeas corpus and dismissing the action.

On January 19, 2016, petitioner filed a motion for a 40-day extension of time to file his objections, asserting that he had not received the R&R until January 1, 2016 and further claiming that, due to an incident at the institution where he is housed, the law library was not operating at normal capacity, making it impossible for him to timely respond. The Court accepted petitioner's assertions, vacated the January 13, 2016 ruling, directed the Clerk to reopen the case, and granted petitioner until February 19, 2016 to file any objections.

No objections have been filed as of the date of this order, which is well beyond the February 19th deadline. The failure to file written objections to a Magistrate Judge's report and recommendation constitutes a waiver of a de novo determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge's report and recommendation, which concludes that petitioner's two grounds are both procedurally defaulted, and accepts the same.

Accordingly, the petition for writ of habeas corpus is denied and the case dismissed. Further, the Court certifies that an appeal from this decision could not be taken in good faith and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §§ 1915(a)(3), 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: February 29, 2016



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE